

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPS No.2788 of 2017**

- Sanjay Naampalliwar S/o Shri Anant Rao Nampalliwar, Aged About 47 Years  
R/o 12 Vinayak Garden, Vijay Nagar Chowk, Awanti Vihar Raipur  
Chhattisgarh.

---- Petitioner

**Versus**

1. State Of Chhattisgarh Throgh The Secretary, Ministry Of Cooperative Societies.  
Secretariat, Mahanadi Bhawan, Naya Raipur, District Raipur Chhattisgah.
2. The Registrar, Cooperative Societies, Raipur, (Chhattisgarh)
3. The C G Public Service Commission, Through Its Secretary, Raipur  
Chhattisgarh.

---- Respondents

---

|                      |   |                             |
|----------------------|---|-----------------------------|
| For Petitioner       | : | Shri Vivek Chopra, Advocate |
| For Respondent/State | : | Shri Satish Gupta, GA       |
| For Respondent/PSC   | : | Shri Y. Mishra, Advocate    |

---

**Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**04/10/2017**

Heard.

2. Order dated 25-05-2017 passed by the State Government is under challenge in this petition on the ground that the petitioner has been imposed penalty of dismissal from service without holding any departmental enquiry which is impermissible under the law. Other ground is that the order of imposition of penalty has been passed by the State Government, but the State Government is not the appointing authority of the petitioner, therefore, in view of the decision of the Supreme Court in the case of ***Brij Bihari Singh vs. Bihar State Finance Corporation and others, (2015) 17 SCC 541, order of dismissal is bad in law.***

3. In this case, earlier this Court had granted time to the learned State counsel to file return, whether the order, in fact is of termination founded upon conviction. Return has been filed, but in the return, no specific statement has been made to this effect

that the order impugned is termination founded on misconduct in exercise of power under Rule 19 of the Chhattisgarh Civil Services (Classification, Control and Appeal) Rules, 1966 (In short “ the Rules of 1966”).

4. In the face of it, the impugned order is bad in law. The respondents could have terminate the petitioner from services on the basis of misconduct which has led to conviction, in view of the provisions contained in Rule 19 of the Rules of 1966. Under that Rule, in case of conviction, there is no necessity for holding departmental enquiry under Rule 14 and termination can take place on the basis of misconduct which has led to conviction. However, at the same time, if the authority intends to impose penalty of dismissal as provided in Rule 10(ix) of the Rules of 1966, at least one opportunity of hearing against proposed penalty is required to be afforded in view of decision of Supreme Court in the case of ***The Divisional Personnel Officer, Southern Railway and another vs. T. R. Challappan, AIR 1975 SC 2216***. This has not been done. Additional ground raised by the petitioner in this petition that the petitioner has been dismissed from service by the State Government, who is appellate authority and not the appointing authority, also could not be denied by the respondents, because the petitioner has placed on record order which would show that the petitioner was appointed by the Registrar and not by the State Government. Therefore, decision in the case of ***Brij Bihari Singh*** (supra), relied upon by the petitioner would squarely apply.

5. In view of the above, the impugned order is bad and hereby set aside, however, with liberty to the competent authority to take recourse to power of termination under Rule 19 of the Rules of 1966 which permits termination on the basis of misconduct which has led to conviction.

6. The petition is accordingly allowed.

SD/-  
(**Manindra Mohan Shrivastava**)  
Judge